



ACQUISITION LETTER

This Acquisition Letter is issued under the authority of the Senior Procurement Executives of DOE and NNSA

Subject: DOE PERSONAL PROPERTY FOREIGN TRANSACTIONS
(Title Transfer, Loan, and Abandonment)

References:

Atomic Energy Act Sections 161g and 161j., Title 42 of the United States Code (U.S.C.) sections 2201g, and 22201j
42 U.S.C 16312 (Public Law 109-58, title IX, section 972, Aug. 8, 2005, 119 Stat. 899),
41 Code of Federal Regulations (CFR) 102-36.380-395, Federal Management Regulation (FMR)
DOE Order 580.1, Department of Energy Personal Property Program 4.c(3)
DOE Guide 580.1-1, Department of Energy Personal Property Management Guide Chapter 11.8

When is this Acquisition Letter (AL) Effective?

This AL is effective immediately upon issuance.

When Does This AL Expire?

This AL remains in effect until superseded, or canceled. Guidance in this Acquisition Letter shall be followed until DOE Order 580.1 is updated to include foreign transactions.

Who are the Points of Contact?

Sarah Ball, Director, Office of Resource Management, Personal Property Management Division (MA-632), Department of Energy (DOE) at 202-287-1563 or by email at Sarah.Ball@hq.doe.gov.

Bruce Bakaysa, Office of Acquisition & Supply Management, (NA-63) National Nuclear Security Administration (NNSA), at 202-586-0250 or by email at Bruce.Bakaysa@nnsa.doe.gov.

What is the Purpose of this AL?

The purpose of this AL is to provide direction and procedural guidance to DOE and NNSA on proper protocol for personal property transactions executed with foreign entities, to include property title transfers, loans and abandonment, and for personal property in the hands of the Federal government, contractor or a third party. Direction and guidance is specific to accountable personal property, as defined in DOE Order 580.1, and excludes internal use software and real property.

What is the Background?

The Atomic Energy Act of 1954 provides DOE the authority to transfer personal property to foreign entities. The program office, in consultation with legal counsel, needs to make a determination that the property was either acquired for Atomic Energy Act purposes, or that the property will be used or disposed for Atomic Energy Act purposes in the future. Transfers are also authorized when the transfer is in the interest of national security. In addition to the Atomic Energy Act, a transfer may be authorized by another statute.

Federal Management Regulation guidance for disposal of property located in foreign countries is identified in 41CFR 102-36.380-395.

What is the Guidance?

A. General Guidance

1. New Requests:

DOE/NNSA owned personal property may only be transferred, loaned or abandoned to a foreign entity after a formal request package is approved.

- For DOE, send package requests to the DOE Property Executive at MA-63
- For NNSA, send the package requests to NNSA Service Center OPMO at mcorrea@doeal.gov

B. Packages:

- Foreign transaction request packages are to include the following:

#	Documentation Requirements	DOE	NNSA
1	DOE or contractor personal property request to transfer, abandon or loan	✓	✓
2	High Risk Certification (does not apply to personal property purchased outside of the United States)	✓	✓

3	Equipment list to include description, quantity, and acquisition cost	✓	✓
4	Export Control Review	✓	✓
5	Copy of country-to-country or collaborative agreement between the United States/DOE and foreign entity	✓	✓
6	Completed Personal Property Loan Agreement (DOE F 4420.2) for foreign loan request	✓	✓
7	Cognizant Headquarters (HQ) Program Office concurrence in writing to the DOE site and/or contractor that supports the efforts of the foreign transaction.	✓	✓
8	OPMO review and recommendation for HQ review and approval. NNSA OPMO approves foreign title transfers. NNSA HQ approves foreign loans.	✓	
9	Contracting Officer (CO) or the Contracting Officer Representative (COR), if delegated, concurrence. (if applicable) (not required by NNSA.)	✓	

2. Previously approved requests: foreign loans requiring extensions, additions, or changes of property:

- OPMO approval is required for extensions, additions, or changes in property under an approved loan.
- Loan extensions require that the country-to-country or collaborative agreement still be in effect.

C. Specific Guidance

1. DOE packages:

- All DOE foreign transaction request packages must have the Office of Policy and International Affairs (PI-30) review and concurrence.
- Request packages specific to personal property purchased for the purpose of directly transferring title to a foreign entity must have HQ General Counsel (GC-77) review. For excess DOE property that is to be transferred or abandoned to a foreign entity, local General Counsel review is sufficient.
- After obtaining the required clearances, MA-63 provides the relevant OPMO written approval to proceed with the foreign transaction.

2. NNSA packages:

- NNSA General Counsel for Procurement provided a legal opinion that NNSA has authority under Section 161j. of the Atomic Energy Act to transfer personal property for the Global Threat Reduction Initiative (GTRI) Program, The Material Protection, Control, and Accounting Program (MPC&A), Second Line of Defense Program (SLD), and the International Nuclear Safeguards and Engagement Program (INSEP).
- While some transfers to foreign entities may be administered by a DOE national laboratory, personal property acquired with NNSA funds remains NNSA property until it is properly transferred or otherwise legally disposed. Accordingly, the NNSA OPMO has the authority to approve the transfer of all NNSA property, regardless of the contracting mechanism employed. This authority cannot be delegated outside NNSA.
- The authority provided under the Atomic Energy Act can be used to transfer title to previously acquired property, as well as newly acquired property, to the host country government, so long as it is identified on the Equipment Listing provided by the NNSA OPMO. Equipment not identified on the Equipment Listing is to be submitted to the NNSA OPMO in a package which includes document requirements identified under A. General Guidance of this AL.
- Requests to transfer property to a foreign entity are to be coordinated with NNSA General Counsel (NA-3.1) for legal review. After review, the NNSA OPMO provides written approval to the contractor.
- International Affairs (PI-30) clearance is not required, but a courtesy review is requested with each foreign loan request.
- All foreign loan request packages are submitted to the Senior Procurement Executive (NA-63) for approval.
- After the loan is approved by the Senior Procurement Executive (NA-63), the NNSA OPMO provides the direction to the contractor to loan the property.
- Requests for abandonment or donation are to be submitted in writing to the NNSA Service Center for review/approval by the NNSA OPMO. Local General Counsel review is sufficient.